



FH

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MPA/160253

PRELIMINARY RECITALS

Pursuant to a petition filed August 27, 2014, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Division of Health Care Access and Accountability in regard to Medical Assistance, a telephone hearing was held on September 25, 2014.

The issue for determination is whether the department correctly denied Petitioner's prior authorization request for diabetic shoes with multi density inserts.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By Letter: Pamela Hoffman

Division of Health Care Access and Accountability
1 West Wilson Street, Room 272
P.O. Box 309
Madison, WI 53707-0309

ADMINISTRATIVE LAW JUDGE:

Corinne Balter
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Racine County.
2. Petitioner is 49 years old. He has diabetic neuropathy, pain in both feet, and severe edema in both feet.

3. On July 25, 2014 Petitioner's Provider completed a medical prior authorization request under claim # [REDACTED] for diabetic shoes with multi density inserts. The cost of the shoes were \$197.38.
4. On July 25, 2014 the Department advised Petitioner's Provider that additional documentation was needed to process the prior authorization request. The provider submitted additional documentation.
5. On July 28, 2014 the Department again advised Petitioner's Provider that additional documentation was needed. On July 29, 2014 Petitioner's provider submitted a letter stated "client does have pronation of both feet, bilateral of 10 degrees. He also has Severe Edema Bilaterally and is not able to wear normal shoes of any kind; which he needs for ambulation but not just due to his edema but needs for ambulation due to his diabetes, his neuropathy as well as his edema."
6. On August 1, 2014 the Department denied the prior authorization request.
7. On August 29, 2014 the Division of Hearings and Appeals received Petitioner's appeal of this denial.

DISCUSSION

The Department may only reimburse providers for medically necessary and appropriate health care services and equipment listed in Wis. Stats. §§ 49.46(2) and 49.47(6)(a), as implemented by the Wisconsin Administrative Code, chapter DHS 107.

The administrative code provision governing durable medical equipment provides, in relevant part, as follows:

DHS 107.24. Durable Medical Equipment and Supplies . . .

(2) COVERED SERVICES . . . (c) Categories of durable medical equipment. The following are categories of durable medical equipment covered by MA:...

2. Orthopedic and corrective shoes. These are any shoes attached to a brace for prosthesis
3. Orthoses. These are devices which limit or assist motion of any segment of the human body. They are designed to stabilize a weakened part or correct a structural problem. Examples are arm braces and leg braces....

(4) OTHER LIMITATIONS . . .

- (f) Orthopedic or corrective shoes or foot orthoses shall be provided only for postsurgery conditions, gross foot deformities, or when attached to a brace or a bar. These conditions shall be described in the prior authorization request....

(5) NON-COVERED SERVICES. The following services are not covered services:

- (a) Foot orthoses or orthopedic or corrective shoes for the following conditions:
 1. Flattened arches, regardless of the underlying pathology;
 2. Incomplete dislocation or subluxation metatarsalgia with no associated deformities;
 3. Arthritis with no associated deformities; and,
 4. Hypoallergenic conditions....

Under MA rules orthotics can be covered only for post-surgery conditions or gross foot deformities. A discrepancy in leg length must be at least ½ inch. See *MA Prior Authorization Guidelines*, p. 140.B.002.02.

Petitioner's condition is not of any of these covered types. Petitioner has pronation of both feet, bilateral of 10 degrees. He also has Severe Edema Bilaterally. The Department notes that this is essentially a flat foot with edema, which is swelling. I further note that pronation of the foot is a person's gait or the tendency to go slightly outward or inward with the foot while walking or running. The Department is correct that this is not a gross foot deformity. The Department is further correct that Petitioner's condition fits into the non-covered services.

I note that the standard in the administrative code for orthopedic and corrective shoes is a high standard. There are many people that may have some foot deformities, pain, or other problems with their feet who will not qualify for orthopedic and corrective shoes. The burden is on Petitioner to show that the Department erred in their denial, and that he has a gross foot deformity. Petitioner stated that he needs these shoes to prevent further problems associated with his diabetes, and would buy them himself if he could afford them. This is not enough to overturn the Department's denial.

CONCLUSIONS OF LAW

The agency correctly denied Petitioner's medical prior authorization request for diabetic shoes with multi density inserts

THEREFORE, it is

ORDERED

That the Petition is dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

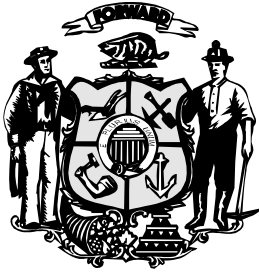
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 3rd day of October, 2014

\sCorinne Balter
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on October 3, 2014.

Division of Health Care Access and Accountability